

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 664

INTRODUCER: Community Affairs Committee, Senator Altman and others

SUBJECT: Tax Collections, Sales, and Liens

DATE: March 5, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.			FT	
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

This committee substitute (CS) revises, updates and consolidates provisions of chapter 197, of the Florida Statutes relating to tax collections, sales and liens. The CS tolls the statute of limitations relating to proceedings involving tax lien certificates or tax deeds to the period of intervening bankruptcy. The CS amends requirements for tax deed applications and the purchase of tax certificates to provide definitions and include interest, fees, and costs in the face value of the certificate. The CS provides for electronic notice, programs, sales, and fees. The CS also authorizes tax collectors to issue certificates of correction to the tax rolls and outstanding delinquent taxes for uncollectable personal property accounts. The CS consolidates provisions relating to the payment of deferred taxes and deletes opening bid requirements for homestead property.

This CS substantially amends chapter 197 of the Florida Statutes.

This CS creates the following sections of the Florida Statutes: 95.051(1)(h), 197.146, 197.2421, 197.2423, 197.332(2), 197.4725, and 197.603.

This CS repeals the following sections of the Florida Statutes: 197.202, 197.242, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, 197.3047, 197.307, 197.3072, 197.3073, 197.3074, 197.3075, 197.3076, 197.3077, 197.3078, 197.3079, and 197.432(12), (13), and (16).

## II. Present Situation:

### Property Tax Assessments

Chapters 193-195, Florida Statutes, address property assessment procedures. On January 1 of each year, local property appraisers assess all real and tangible personal property located within the county. The assessment process begins by determining the property's just value, which is defined as what a willing buyer would pay a willing seller for the property in an arm's length transaction.<sup>1</sup> To determine the property's just valuation, property appraisers are required to utilize the factors outlined in s. 193.011, F.S.

Article VII, sec. 4, of the State Constitution provides for certain classes of property to be assessed at less than just value, or limits the amount by which assessed value may increase in a given year. These include but are not limited to, exemptions for homesteads and charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions.<sup>2</sup> After calculating the assessed value of the property, the appraiser subtracts the value of any property tax exemptions as provided by ch.196, F.S., to determine the taxable value.

The property appraiser's assessment roll must be completed and submitted to the executive director of the Department of Revenue for approval by July 1 of each year, unless good cause is shown for extension.<sup>3</sup> As provided by ch. 195, F.S., the Department of Revenue has general supervision of the assessment and valuation of the property. Taxpayers receive a Notice of Proposed Property Taxes (TRIM notice) in August of each year. This notice provides the taxable value of their property and the millage rate<sup>4</sup> necessary to fund each taxing authority's proposed budget. Chapter 194, F.S., provides that taxpayers have the right to appeal the property appraiser's assessment at an informal conference with the property appraiser, by filing a petition to the Value Adjustment Board<sup>5</sup> within 25 days after the TRIM notice was mailed, or to contest the assessment in circuit court. Upon completion of the appeals process, local taxing authority will hold a public hearing to adopt the final budget and millage rate.<sup>6</sup> After this is completed, the property appraiser will then deliver the final certified tax assessment roll to the tax collector.

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<sup>1</sup> Section 193.011, F.S. *See also* *Walter v. Shuler*, 176 So.2d 81 (Fla.1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla.1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The Save Our Homes provision limits the amount a homestead's assessed value can increase annually to 3% or the consumer price index, whichever is less. *See* Art. VII, section 4(d) of the State Constitution.

<sup>3</sup> Section 193.1142, F.S.

<sup>4</sup> The millage rate is the rate at which the property is taxed and is set by county commissioners based on how much revenue is needed for operating expenses. *See* s. 200.069, F.S. *See also* Florida Department of Revenue website, *Local Government Property Tax Process*, available at <http://dor.myflorida.com/dor/property/taxpayers/pdf/ptoinfographic.pdf> (last visited on Feb. 11, 2010).

<sup>5</sup> The Value Adjustment Board for each county consists of two elected governing members of the county, one of which shall be the elected chairperson and the other a member of the school board, as well as two citizen members: one appointed by the governing body that owns a homestead within the county and one appointed by the school board owning a business that occupies commercial space located within the school district. *See* s. 194.015, F.S.

<sup>6</sup> Section 200.065, F.S.

Pursuant to s. 197.322, F.S., the tax collector will mail a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls, stating the amount due and advising the taxpayer of discounts provided for early payment.<sup>7</sup>

### **Tax Collections, Sales and Liens**

Chapter 197, Florida Statutes, governs tax collections, sales and liens. Property taxes are due and payable on November 1 of each year or when the certified tax roll is received by the tax collector. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent.<sup>8</sup> On April 30, the tax collector sends an additional tax notice to taxpayers whose payment has not been received notifying that taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.<sup>9</sup>

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes which “shall be struck off to the person who will pay the taxes, interest, cost and charges and will demand the lowest rate of interest under the maximum rate of interest”.<sup>10</sup> Tax certificates that are not sold are issued to the county at the maximum interest rate (18%). The sale of the tax certificate acts as first lien on the property that is superior to all other liens; but it does not convey any property rights to the investor.<sup>11</sup>

A property owner can redeem a tax certificate anytime before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing the tax certificate is required to pay the investor or county “all taxes, interest, costs, charges, and [any] omitted taxes” and a \$6.25 fee to the tax collector.<sup>12</sup>

The tax certificate holder is entitled to apply for a tax deed on the property on or after April 1 of the second year following the sale of the certificate, by filing the certificate with the county tax collector and paying all other tax certificates held on the same property, any current taxes that are due, and certain additional fees and costs. If the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on the List of Lands available for sale.<sup>13</sup> Property that is placed on the list of lands available for sale, and is not sold three years after the public auction escheats to county in which the property is located, free and clear of all liens.<sup>14</sup>

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<sup>7</sup> Section 197.322 (1), F.S. *See also* s. 187.222, F.S. Taxpayers who elect to prepay their taxes by installment “based upon the estimated tax equal to the actual taxes levied upon the subject property in the prior year”.

<sup>8</sup> Section 197.333, F.S.

<sup>9</sup> Section 197.343, F.S.

<sup>10</sup> Section 197.432 (5), F.S.

<sup>11</sup> Section 197.122, F.S., *see also* s. 197.432, F.S.

<sup>12</sup> Section 197.472, F.S.

<sup>13</sup> Section 197.542, F.S., “If the certificate holder is not the successful bidder, he/she is reimbursed all monies paid, plus interest earned from the monies received from the successful bidder.” *Tax Deed & Foreclosure Sales: Tax Deed Sales*, Walton, Florida Clerk of Courts website, available at [http://www.clerkofcourts.co.walton.fl.us/public\\_records/tax\\_deed\\_and\\_foreclosure\\_sale\\_information\\_area.html](http://www.clerkofcourts.co.walton.fl.us/public_records/tax_deed_and_foreclosure_sale_information_area.html) (last visited on Feb. 11, 2010).

<sup>14</sup> Section 197.502(8), F.S.

A tax certificate that is not redeemed or for which a tax deed has not been applied for after a period of seven years is considered to be null and void.

### **Tax Deferrals**

Chapter 197, F.S., also provides certain instances in which a taxpayer can delay paying a portion of his or her combined taxes to a future date. Sections 197.252-197.3079, F.S., allow individual tax deferrals for taxpayers who are entitled to exemptions for homestead, recreational and commercial working waterfront, and affordable rental housing property. To qualify for a tax deferral, these classified property owners are required to file an annual tax deferral application with the county tax collector on or before January 31 following the year the property was assessed.

## **III. Effect of Proposed Changes:**

**Section 1** creates paragraph (h) in s. 95.051(1), F.S., to toll the statute of limitations for proceedings related to tax lien certificates or tax deeds under chapter 197, F.S., by the period of an intervening bankruptcy.

**Section 2** amends s. 197.102(1) F.S., to provide the following definitions:

- “Awarded” means the time when the tax collector or a designee determines and announces verbally or through the closing of the bid process in an electronic auction that a buyer has placed the winning bid at a tax certificate sale.
- “Proxy bidding” means a method of bidding by which a bidder authorizes an agent, whether an individual or an electronic agent, to place bids on his or her behalf.
- “Random number generator” means a computational device that generates a sequence of numbers that lack any pattern and is used to resolve a tie when multiple bidders have bid the same lowest amount. The generator assigns a number to each of the tied bidders and randomly determines which one is the winning bid.
- Revises the definition of “tax certificate” and “tax notice” to include an electronic tax certificate and an electronic tax bill.

Clarifies that the definitions listed in subsection (2) in 197.102, F.S., shall apply when a local government uses the methods listed in s. 197.3632, F.S., to levy, collect, or enforce a non ad-valorem assessment.

**Section 3** amends s. 197.122, F.S., to clarify that an act of omission or commission on the part of the property appraiser, tax collector, board of county commissioners, clerk of circuit court, county comptroller; or their deputies or assistants; or by a newspaper that may publish the advertisement of a tax sale, does not defeat the payment of taxes.

Clarifies that tax payments also include the payment of interest, fees and any costs due. Clarifies that the sale or conveyance of real property that is being sold for nonpayment of taxes is not valid when it is redeemed before the clerk of court receives full payment for a tax deed; including all recording fees and documentary stamps.

Requires the property appraiser to correct material mistakes of fact in the property appraisal rather than leaving it to the property appraiser’s discretion.

Makes additional technical revisions.

**Section 4** amends s. 197.123, F.S., to clarify that the tax collector must notify the property appraiser if a taxpayer has filed an erroneous or incomplete personal property statement or has failed to disclose all of the property subject to taxation.

**Section 5** creates s. 197.146, F.S., to provide that a tax collector may issue a certificate of correction for the current tax roll or any prior tax rolls if the tax collector determines that a tangible personal property account is uncollectable. The tax collector must notify the property appraiser that the account is invalid, and the assessment may not be certified for a future tax roll.

States that an uncollectable account includes, but is not limited to, an account originally assessed but cannot be found to seize and sell for the payment of taxes, and other personal property of the owner for which a tax warranty may be levied.

**Section 6** amends s. 197.162, F.S., to make technical corrections. Changes the title of the section to “Tax discount payment periods” and adds the specification that discounts will apply only to payments made before delinquency, and specifically includes the zero percent discount in the periods covered.

**Section 7** amends s. 197.172, F.S., to delete outdated language and to clarify that interest on tax certificates shall be calculated from the first day of the month, including interest on deferred payment tax certificates, which is currently calculated as provided in s. 197.262, F.S.

**Section 8** amends s. 197.182, F.S., making numbering and grammatical changes and shortens the time a demand for reimbursement can be made because of a payment made in error for delinquent taxes from 24 to 12 months. Creates a new subsection (5) to state that the time demand for reimbursement on erroneous payments for taxes that have *not* become delinquent is 18 months. It raises the minimum amount of a refund for overpayment from \$5 to \$10 and changes the time period for a tax collector to automatically refund a payment made in error from 4 years to 12 months. The amount of a refund that does not have to be forwarded to the Department is increased from \$400 to \$2,500. The procedure for apportioning payment among taxing authorities is reworded.

States that a tax collector may send notice of denial of a refund electronically or by postal mail. Clarifies that electronic transmission may only be used with the express consent of the property owner and if such electronic notice is returned as undeliverable, a second notice must be sent by postal mail. However, for purposes of this section, the original electronic transmission constitutes as the official mailing.

**Section 9** amends s. 197.222, F.S., to make grammatical changes and remove the requirement that the application be made on forms supplied by the department. Adds a section that requires the tax collector to send a quarterly statement to those participating in the prepayment installment plan.

**Section 10** amends s. 197.2301, F.S., to make grammatical changes and changes the \$5 underpayment or overpayment threshold to \$10.

**Section 11** creates s. 197.2421, F.S., to combine tax deferral provisions into one subsection. The authorized property tax deferral programs are: Homestead tax deferral, Recreational and commercial working waterfront deferral, and Affordable rental housing deferral.

**Section 12** creates s. 197.2423, F.S., providing the procedures for tax collectors to approve or deny property tax deferral applications.

**Section 13** rennumbers section 197.253, F.S., as section 197.2425, F.S., and provides amendments for procedures to appeal the denial of an application for a tax deferral. The filing date is changed from 20 to 30 days after receiving the disapproval notice.

**Section 14** amends s. 197.243, F.S., removing “Act” from the title.

**Section 15** amends s. 197.252(1), F.S., to remove language stating that the amount of the tax deferral is for the amounts that would have been covered had the tax certificate been sold. Removes language in subsection (3) and (5), which is inserted in section 13 of the CS.

Amends subsection (2) to clearly state the eligibility requirements for the approval of a homestead tax deferral application.

Amends subsection (3) to require the property appraiser to notify the tax collector of a change in ownership or change in homestead exemption status of property granted a tax deferral.

Removes subsection (4) which provides that the interest accruing on deferred tax is one-half of 1 percent plus the average yield to maturity of the long term fixed income portion of the Florida Retirement System and may not exceed 7 percent.

**Section 16** rennumbers s. 197.303, F.S., as s. 197.2524, F.S., and includes procedures for the tax deferral of affordable rental housing property.

**Section 17** rennumbers s. 197.3071, F.S., as s. 197.2526, F.S., to provide specifically for tax deferral eligibility of affordable rental housing property.

**Section 18** amends s. 197.254, F.S., to remove the language requiring the notice of the right to deferral to be printed on the back of the notice envelope specified in s. 197.322(3), F.S., and remove the specification of the form of the notice, but keeps the requirement that taxpayers be notified.

**Section 19** amends s. 197.262, F.S., removing the requirement for the tax collector to notify the local governing body of taxes that are deferred. Limits the amount of interest on tax certificates to 7 percent.

**Section 20** amends s. 197.263, F.S., moving language from subsection (2) and placing it in subsection (1). It provides that if there is a change in ownership to a surviving spouse and the spouse is eligible to maintain the tax deferral, the spouse may continue the deferral.

Language in subsection (2) which requires all deferred taxes to be due and payable when there is a change in ownership is removed and subsequent subsections are renumbered.

Subsection (3) requires the tax collector to notify the owner when the total amount of the deferral exceeds 85 percent of the just value, rather than the assessed value, to state that such portion of the taxes become due and payable within 30 days after the notice is sent.

**Section 21** amends s. 197.272, F.S., and requires that any payment less than the total amount due must be made in full year increments.

**Section 22** amends s. 197.282, F.S., adding “non-ad valorem assessments” to the distribution by the tax collector.

**Section 23** amends s. 197.292, F.S., with minor wording and numbering changes.

**Section 24** amends s. 197.301, F.S., including “non-ad valorem assessments” in the total amount due and penalty amount calculated pursuant to the uniform method prescribed in s. 197.3632, F.S.

**Section 25** amends s. 197.312, F.S., making minor wording and numbering changes.

**Section 26** amends s. 197.322, F.S., making minor wording and numbering changes and allowing notices to be sent electronically, specifying procedures for electronic delivery.

**Section 27** amends s. 197.332(1), F.S., by adding language allowing tax collectors to use electronic means and contract for services to carry out their duties, but specifies that the liability of tax collectors is not diminished when using contracted services or products. Allows the tax collector to include the costs of contracted serves in proceedings to recover taxes, interests, and costs.

Creates subsection (2) to allow the tax collector to establish one or more branch offices by acquiring title to real property, or by lease agreement; to staff and equip the branch offices to conduct state business, or county business if authorized by resolution of the county governing body pursuant to section 1(k), Art. VIII, State Constitution.

Requires the department to rely on the tax collector’s determination that the branch office is necessary and shall base its approval of the tax collector’s budget in accordance with the procedures of s. 195.087(2), F.S.

**Section 28** amends s. 197.343, F.S., providing that the additional tax notice can be sent electronically with express consent of the property owner, stating specific procedures for electronic transmission. The requirement for a duplicate tax notice to be mailed to a condominium or homeowner association is removed.

**Section 29** amends s. 197.344, F.S., making minor wording changes and removing all references to the mailing of notices and replaces the word “mail” with the word “sent”. The notices may be sent electronically or by postal mail.

**Section 30** amends s. 197.3635, F.S., removing subsection (2) that requires the form to have a clear partition between ad valorem taxes and non-ad valorem assessments. Removes the size requirements of the partition and makes minor wording and numbering changes.

**Section 31** amends s. 197.373, F.S., with minor wording changes and changes the 15 day notice requirement to 45 days for partial payment of taxes.

**Section 32** amends s. 197.402, F.S., making minor wording changes to subsection (1) and adding language to subsection (2) to provide that if the deadline falls on a Saturday, Sunday, or legal holiday, it is extended to the next working day.

Specifies that for certificates sales that commence on or before June 1, all certificates shall be effective as of the first day of the sale and interest shall be paid on the certificate to include the month of June.

**Section 33** amends s. 197.403, F.S., making minor wording changes and removing the requirement for the affidavit to be in the form prescribed by the department.

**Section 34** amends s. 197.413, F.S., making minor wording changes to subsections (5) and (10). Provides for the tax collector to give notices to delinquent taxpayers and changes the fee from \$2 to \$10. Deletes the \$8 fee that the tax collector is entitled to for each warrant issued.

**Section 35** amends s. 197.414, F.S., removing the requirement that the record be kept in a form prescribed by the department. Clarifying that the warrant register can be kept in paper or electronic form.

**Section 36** amends s. 197.4155, F.S., making minor wording changes to subsections (1) and (2). Removes the limitation that the installment program be available to delinquent taxpayers whose delinquent personal property taxes exceed \$1,000.

**Section 37** amends s. 197.416, F.S., making minor wording changes and removing redundant language forbidding an action in any court after the 7-year limitation period.

**Section 38** amends s. 197.417, F.S., amending the minimum time period that the tax collector is required to advertise the time and place for the sale of personal property after seizure from 15 to seven days. Amends the number of notices to be posted from three to two and removes the courthouse location as one of the required public places to post notice. Authorizes one notice to be posted on the Internet. Requires a description and photograph of the property be available for a sale conducted electronically. Removes the immediate payment requirement.

**Section 39** amends s. 197.432, F.S., making minor wording changes and adds a statement to subsection (1) that electronic means, including proxy bidding, can be used in the certificate sale.

Subsection (3) is worded to state that the tax collector may not issue a tax certificate if the real property taxes are paid before awarding a certificate. After a certificate is awarded, the delinquent taxes interest, costs and charges are paid by the redemption of the tax certificate.



Subsection (4) increases the defining amount in which a tax certificate is automatically struck to the county, rather than sold at public auction, from \$100 to \$250.

Subsection (5) is created to provide that any tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.

Subsection (6) provides for the use of proxy bidding and random number generators. Stating that the tax collector can determine the winning bidder by random number generators or by selecting the first bidder.

Subsection (7) provides for electronic notice when certificates are ready and provides that a 5 percent interest rate per annum be accompanied with any refund for a payment requested by the tax collector in error, which was refunded 15 days after the payment.

Subsection (8) gives requirements for reoffering certificates for sale before and after adjournment of the sale.

Subsection (9) permits the official record of awarded tax certificates to be maintained electronically.

Current subsections (12), (13) and (16) are deleted and replaced in other sections of the CS. Subsection (12) provided that all tax certificates issued to the county for lands located in the county shall be held by the county tax collector. Subsection (13) provided that all delinquent real property taxes may be paid after the delinquency date but prior to the certificate sale by paying all costs, charges and interest. Subsection (16) provided for the conduct of tax certificate sales by electronic means.

Subsection (12) of the CS provides that the tax collector is entitled to a five percent commission included in the face value of the certificate for certificates that are not struck to the county, and that the tax collector cannot receive any commission for certificates struck to the county until the certificate is redeemed or purchased by an individual. If a tax deed is issued to the county, the tax collector cannot receive any commission until the property is sold and conveyed to the county.

**Section 40** amends s. 197.4325, F.S., making minor wording changes and changing references to “check” to “payment.” Subsection (1)(b), requiring the tax collector to retain a copy of the cancelled tax receipt and dishonored check, is repealed. In subsection (2)(a), the tax collector requirements upon receiving a dishonored payment are substantially shortened.

**Section 41** amends s. 197.442, F.S., making minor word changes throughout subsection (2).

**Section 42** amends s. 197.443, F.S., making minor wording changes. Provides that tax certificate corrections or cancellations that have been ordered by a court or that do not result from changes made in the assessed value on a tax roll certified to the tax collector are required to be made by the tax collector with no order from the department. Allows the certificate to be amended as a result of payments received due to an intervening bankruptcy or receivership.

**Section 43** amends s. 197.462, F.S., making minor wording changes. Removes the requirement that the tax collector endorse a tax certificate in subsection (2).

**Section 44** amends s. 197.472, F.S., making minor word changes throughout subsections (1), (6) and (7). Clarifies that in order to redeem a certificate that is in the tax deed application status, the redeeming party must pay all principle, fees, and interests that would constitute a minimum bid under s. 197.542, F.S. Clarifies the procedural requirements for a tax collector to issue a redemption receipt and certificate. Specifies that provisions of subsection (5) do not apply to collections relating to fee timeshare real property.

**Section 45** creates s. 197.4725, F.S., providing a separate section for the purchase of *county-held* tax certificates at any time after a certificate is issued and before a tax deed application is made. The redemption procedures in this section slightly mirror those provided in s. 197.472, F.S. It provides that the interest earned shall be calculated at 1.5 percent per month.

**Section 46** amends s. 197.473, F.S., providing that unclaimed redemption moneys are considered unclaimed as defined in s. 717.113, F.S., and must be remitted to the state instead of the board of county commissioners. Removes the provision that all claims for the unclaimed redemption moneys are barred after two years.

**Section 47** amends s. 197.482, F.S., making minor wording changes. Removes references to the Act of the 1973 legislature and provisions pertaining to the Murphy Act.

**Section 48** amends s. 197.492, F.S., making minor wording changes throughout. Allows the report to be submitted in electronic format. Removes the provision requiring the board to review and investigate the tax collector's report. Deletes language that the board shall charge the tax collector, if he or she has taken credit as an insolvent item, any personal property tax due by a solvent taxpayer.

**Section 49** amends s. 197.502, F.S., providing specified procedures and time requirements for tax deed applications. Provides authorization for a reimbursement of any fee for an electronic tax deed application service and removes the requirement for affixation of the tax collector's seal. The opening bid amount for homestead property is removed. The number of years a property shall be offered for sale before it escheats to the county is changed from three to seven if the tax deed application was filed by an individual. If the tax deed application was filed by the county, the number of years the property must be offered for sale before it escheats to the county remains at three years.

**Section 50** amends s. 197.542, F.S., making minor wording changes. Removes archaic language regarding the sale at public outcry. Requires all delinquent tax amounts accrued after filing an application to be included in the minimum bid. Removes language that requires the opening bid on homestead property to be half of the just value. Allows the applicant to place the property on the list of available lands as a result of the increased minimum bid. Changes the highest bidder deposit from \$200 dollars to 5 percent of bid to be consistent with foreclosure sales. Requires that the sale process be repeated until the property is sold and the clerk receives full payment, or until the clerk does not receive any bids other than that of the certificate holder.

States that a tax deed sale may not be cancelled without the consent of the tax deed applicant for any reason in law or equity other than that:

- the tax deed application has been redeemed,
- collection has been stayed by the filing of a bankruptcy petition,
- an error has been discovered in the assessment record, or
- an error has been demonstrated in the procedure or process used in processing the tax deed application or setting the sale.

**Section 51** amends s. 197.522, F.S., making minor wording changes and requiring the clerk's tax deed application notice to specify that property will be sold at the auction, even if it is homestead property. Requires the county sheriff to provide notice to the record titleholder of homestead property with outstanding taxes, 45 days before the tax deed sale.

**Section 52** amends s. 197.552, F.S., making minor wording changes and requiring tax deeds to be in the form prescribed by the department. Provides specific language as to what types of liens survive the issuance of a tax deed. Provides for the distribution of proceeds from a foreclosure sale to satisfy a lien and reimburse the tax deed owner.

**Section 53** amends s. 197.582, F.S., making minor wording changes and removes the requirement for an amount of the homestead property bid to be treated as excess. Provides that the clerk should include payment of tax certificates not incorporated in the tax deed application and omitted taxes in the distribution of the excess proceeds.

**Section 54** amends s. 197.602, F.S., to specify the expenses that are required to be reimbursed when a party successfully challenges a tax deed and directs the court to determine the amount of reimbursement.

**Section 55** amends s. 197.0105, F.S., making minor wording and numbering changes and removing the requirement to send notice by first class mail. Provides that a taxpayer waives the "Right to Know", under s. 197.602, F.S., if he or she fails to provide current contact information to the property appraiser and tax collector.

Adds language to provide that property owners are held to know that property taxes are due and payable annually and that they have a duty to ascertain the amount of current and delinquent taxes that are due from the applicable officials.

States that taxpayers do not have a right to discounts for early partial payments as defined in s. 197.474, F.S.

Clarifies that the taxpayer has the right to redeem the tax certificates any time before full payment for a tax deed is made to the clerk and that certificate holder is not permitted to contact the taxpayer for 2 years after April 1 of the year the certificate is issued.

**Section 56- 57** replaces cross references to s. 197.253, F.S., with s. 197.2425, F.S., to incorporate the amendments in section 12 of the CS.

**Section 58** changes the cross reference to s. 197.432(10), F.S., to s. 197.432(11), F.S, to incorporate the amendments in section 40 of the CS.

**Section 59** creates section 197.603, F.S., which declares a legislative findings and intent that the Legislature has a strong interest in ensuring due process and public confidence in the collection of property taxes. The tax collectors shall be supervised by the Department of Revenue pursuant to s. 195.002(1), F.S. The new section also states that the Legislature intends that property tax collection be free from influence or appearance of influence of the local governments who levy property taxes and receive property tax payments.

**Section 60** repeals sections 197.202, 197.242, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, 197.3047, 197.307, 197.3072, 197.3073, 197.3074, 197.3075, 197.3076, 197.3077, 197.3078, 197.3079, of the Florida Statutes.

**Section 61** provides an effective date of July 1, 2010.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

This CS increases the overpayment amount which may be retained by a tax collector absent a request from the taxpayer, from \$5 to \$10 and authorizes any refund for payments made in error to the taxpayer issued after 15 days to be issued with a 5% interest rate. The CS also changes the highest bidder deposit for tax deed sales from \$200 to 5% of the bid.

B. Private Sector Impact:

Indeterminate at this time.

C. Government Sector Impact:

Indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue makes the following comments:

- The 30 day time frame from receipt of notice in section 13 (**line 747**) of the CS addressing the appeal of a denied tax deferral conflicts with s. 194.011(3)(d), F.S., which provides for 30 days from the *mailing* of the notice.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 4, 2010:**

- The CS provides certain requirements for electronic notices.
- The CS does not address provisions related to Community Development Districts.
- The CS distinguishes between reimbursement procedures for delinquent taxes and for non-delinquent taxes.
- The CS requires any pre-payment for deferred taxes that is less than the total amount due to be made in full year increments.
- The CS requires the tax collector to send a notice of delinquency to property owners.
- The CS specifies that tax certificates sales commenced on or before June 1 are effective the first day of the sale and interest shall include the month of June.
- The CS provides certain procedures for the redemption of tax certificates.
- The CS requires the tax collector to provide seven days public notice before the sale of seized personal property.
- The CS amends the amount of time before a property escheats to the county to provide different time periods for tax deed applications held by an individual versus those held by the county.
- The CS limits when a tax deed sale can be cancelled.
- The CS does not provide early payment discounts for partial payments.

**B. Amendments:**

None.